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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ROBERT SHEREZ,

Plaintiff,

vs.

STATE OF HAWAII, DEPARTMENT
OF EDUCATION; PATRICIA
HAMAMOTO, Superintendent of
Hawai'i Schools; MEREDITH
MAEDA, Principal, Castle High
School; SARA GRONNER or
GRONNA, Vice Principal of Castle
High School,

Defendants.

CIVIL NO. 04-00390 JMS/KSC

SUPPLEMENTAL DECLARATION IN
SUPPORT OF DEFENDANT'S
MOTION IN LIMINE TO PRECLUDE
THE INTRODUCTION OF EVIDENCE
NOT PLED IN THE CHARGE OF
DISCRIMINATION BEFORE THE
HAWAII CIVIL RIGHTS
COMMISSION; EXHIBITS "A", "B"
and "C"; CERTIFICATE OF SERVICE

Trial:

Date: March 28, 2007

Time: 8:30 a.m.

Judge: The Honorable
J. MICHAEL SEABRIGHT

SUPPLEMENTAL DECLARATION IN SUPPORT OF DEFENDANT'S
MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF EVIDENCE
NOT PLED IN THE CHARGE OF DISCRIMINATION BEFORE
THE HAWAII CIVIL RIGHTS COMMISSION

I, NELSON Y. NABETA, declare as follows:

1. I am a Deputy Attorney General with the State of Hawai'i, licensed to practice law before all courts within the State of Hawai'i.

2. I am one of the attorneys representing the Department of Education, State of Hawai'i, Meredith Maeda and Sarah Gronna named as Defendants in the above captioned matter.

3. I make this Declaration based upon my personal knowledge gained in my capacity as a Deputy Attorney General representing the Defendants in this case and am competent to testify concerning the matters set forth below.

5. A true and correct copy of the Pre-Complaint Questionnaire filed by Robert Sherez, in the Hawaii Civil Rights Commission dated June 10, 2003, alleging sex discrimination and retaliation received from counsel for the Plaintiff is attached hereto as Exhibit "A".

4. A true and correct copy of a letter from Kendell Kuehn, investigator for the Hawaii Civil Rights Commission, dated February 9, 2004, to the Robert Sherez, received from counsel for the Plaintiff, concerning the charges of discrimination and retaliation charge filed by the Plaintiff is attached as Exhibit "B".

5. A true and correct copy of the sex discrimination and retaliation charge filed by Robert Sherez, filed in the Hawaii Civil Rights Commission, dated August 5, 2003, received from counsel for the Plaintiff is attached as Exhibit "C".

6. A review of the Pre-Complaint Questionnaire, Exhibit "A" attached, and the Plaintiff's charge of sex discrimination and retaliation, Exhibit "C" attached, are specific to two programs administered in the Department of Education. Both documents describe only two specific programs. First, the Home Hospital Instructional program administered by the Windward District and second, McKinley Community School for Adults. There are no other programs stated in these documents.

7. A review of the letter by Kenneth Kuehn to Robert Sherez, dated February 9, 2004, Exhibit "B" attached, indicates that the investigation by the Hawaii Civil Rights commission was limited to the allegations of sex discrimination in the Home Hospital Instructional program administered by the Windward District and allegations of retaliation in the McKinley Community School for Adults. There are no other programs stated in these documents.

8. Based on a review of the attached exhibits, a reasonable investigation by the Hawaii Civil Rights Commission, would not have encompassed purported retaliatory acts in other programs administered by the Department of Education as

the Plaintiff wishes to assert at time of trial. There would have been no reason for the Hawaii Civil Rights Commission to extend its inquiry into other areas.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: Honolulu, Hawai`i, March 28, 2007.

/s/ NELSON Y. NABETA
NELSON Y. NABETA
Deputy Attorney General

Attorney for Defendants